



State of Louisiana
Louisiana Department of Health
Office of the Secretary

July 10, 2024

Via Statutorily Prescribed Email

To: The Honorable Patrick McMath, Chairman, Senate Health & Welfare Committee
The Honorable Dustin Miller, Chairman, House Health & Welfare Committee

From: Michael Harrington, MBA, MA
Secretary

A handwritten signature in blue ink, appearing to be "MH", written over the printed name of the Secretary.

Re: Second Report to Proposed Amendments to LAC 50:V.Chapter 22 – Inpatient Hospital Services – High Medicaid Utilization Academic Hospitals

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Proposed Amendments to Inpatient Hospital Services – High Medicaid Utilization Academic Hospitals, LAC 50:V.Chapter 22.

A Notice of Intent on the proposed amendments was published in the May 20, 2024 issue of the *Louisiana Register* (LR 50:719). No written comments were received and there was no request for a public hearing during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:966B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the May 20, 2024, Notice of Intent when it is published as a final rule in the August 20, 2024, issue of the *Louisiana Register*.

Please contact Tizi Robinson, Tizi.Robinson@la.gov, and Debbie Gough, Debbie.Gough@la.gov, if you have any questions or require additional information about this matter.

Cc: Kimberly Sullivan, Medicaid Director, LDH
Brian Bennett, Medicaid Deputy Director, LDH
Lyrica Johnson, Medicaid Program Manager, LDH
Bethany Blackson, Chief of Staff, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 22. High Medicaid Utilization Academic Hospitals

§2201. Qualifying Criteria

A. In order to qualify as a high Medicaid utilization academic hospital effective for dates of service on or after July 1, 2024 the hospital shall meet the following criteria per the Medicare/Medicaid as filed cost report for their fiscal year ended in SFY 2023:

1. have a Medicaid inpatient utilization percent of at least 39 percent; and

2. have an approved graduate medical education program with at least 400 intern and resident full-time equivalents (FTEs). The intern and resident FTE count must be included on the Medicare/Medicaid cost report on worksheet E-4, line 6 plus worksheet E-3, Part II, line 6.

NOTE: Payments will not be processed and claims will not be recycled until the Rule is final.

B. Qualifying hospitals shall not add additional locations under their license, without prior written approval of the department.

1. The addition of any off-site campus, beyond an outpatient primary care clinic, to the license of this hospital will invalidate the provisions of this reimbursement methodology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 50:

§2203. Reimbursement Methodology

A. Reimbursement for inpatient hospital services to qualifying high Medicaid academic hospitals who meet all of the criteria in §2201 shall be reimbursed a prospective per diem rate of \$3,880.73 for acute inpatient hospital services including special care units. This rate is based on the allowable Medicaid cost determined from the latest filed Medicare/Medicaid cost report as of March 31, 2024. The prospective graduate medical education component included in this rate is \$271.12.

B. Reimbursement for inpatient hospital service for psychiatric services to qualifying high Medicaid academic hospitals who meet all of the criteria in §2201 shall be reimbursed a prospective per diem rate of \$1,705.76. This rate is based on the allowable Medicaid cost determined from the latest filed Medicare/Medicaid cost report as of March 31, 2024.

C. These rates are conditional on the hospital continuing to meet all qualifying criteria included in §2201. If the hospital no longer qualifies, payments will revert back to appropriate non-rural, non-state hospital assigned rates effective on the date that the qualification(s) in §2201 are no longer met.

D. The department may review all above provisions every three years, at a minimum to evaluate continuation of these enhanced reimbursements.

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

**Inpatient Hospital Services
High Medicaid Utilization Academic Hospitals
(LAC 50:V.2201 and 2203)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 22 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing qualifying criteria and reimbursement methodology for high Medicaid utilization academic hospitals to increase payments for inpatient hospital services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 50:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, but may have a positive impact on the provider's ability to provide the same level of service as described in HCR 170, since it increases payments for services they already render.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on July 1, 2024.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on June 10, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on

June 27, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after June 10, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Ralph L. Abraham, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Inpatient Hospital Services High Medicaid Utilization Academic Hospitals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$1,044,657 for FY 24-25, and \$4,018,742 for FY 25-26; however, these costs will be offset by an inter-agency transfer of funds. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule adopts provisions governing qualifying criteria and reimbursement methodology for high Medicaid utilization academic hospitals to increase payments for inpatient hospital services.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase collections through inter-agency transfer of \$1,044,657 for FY 24-25 and \$4,018,742 for FY 25-26 and will increase federal revenue collections by approximately \$42,909,752 for FY 24-25 and \$51,433,516 for FY 25-26. It is anticipated that \$324 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule adopts provisions governing qualifying criteria and reimbursement methodology for high Medicaid utilization academic hospitals to increase payments for inpatient hospital services. Implementation of this proposed rule is anticipated to increase Medicaid payments to the qualifying hospital by approximately \$43,954,409 for FY 24-25 and \$55,452,257 for FY 25-26.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule increases the inpatient per diem rate to one hospital and may impact hospital directed payments in the future fiscal years.

Kimberly Sullivan, JD
Medicaid Executive Director
2405#052

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office



State of Louisiana
Louisiana Department of Health
Office of the Secretary

July 10, 2024

Via Statutorily Prescribed Email

To: The Honorable Patrick McMath, Chairman, Senate Health & Welfare Committee
The Honorable Dustin Miller, Chairman, House Health & Welfare Committee

From: Michael Harrington, MBA, MA
Secretary

A handwritten signature in blue ink, appearing to be "MH", located to the right of the "From:" field.

Re: Second Report to Proposed Amendments to LAC 50:V.Chapter 77 – Outpatient Hospital Services – High Medicaid Utilization Academic Hospitals

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the Proposed Amendments to Outpatient Hospital Services – High Medicaid Utilization Academic Hospitals, LAC 50:V.Chapter 77.

A Notice of Intent on the proposed amendments was published in the May 20, 2024 issue of the *Louisiana Register* (LR 50:721). No written comments were received and there was no request for a public hearing during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:966B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the May 20, 2024, Notice of Intent when it is published as a final rule in the August 20, 2024, issue of the *Louisiana Register*.

Please contact Tizi Robinson, Tizi.Robinson@la.gov, and Debbie Gough, Debbie.Gough@la.gov, if you have any questions or require additional information about this matter.

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Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services
High Medicaid Utilization Academic Hospitals
(LAC 50:V.7701 and 7703)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.Chapter 77 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing qualifying criteria and reimbursement methodology for high Medicaid utilization academic hospitals to increase payments for outpatient hospital services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 77. High Medicaid Utilization Academic Hospitals

§7701. Qualifying Criteria

A. In order to qualify as a high Medicaid utilization academic hospital effective for dates of service on or after July 1, 2024 the hospital shall meet the following criteria per the Medicare/Medicaid as filed cost report for their fiscal year ended in SFY 2023:

1. have a Medicaid inpatient utilization percent of at least 39 percent; and

2. have an approved graduate medical education program with at least 400 intern and resident full time equivalents (FTEs). The intern and resident FTE count must be included on the Medicare/Medicaid cost report on worksheet E-4, line 6 plus worksheet E-3, Part II, line 6.

NOTE: Payments will not be processed and claims will not be recycled until the Rule is final

B. Qualifying hospitals shall not add additional locations under their license, without prior written approval of the department.

1. The addition of any off-site campus, beyond an outpatient primary care clinic, to the license of this hospital will invalidate the provisions of this reimbursement methodology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 50:

§7703. Reimbursement Methodology

A. Reimbursement for outpatient hospital services to qualifying high Medicaid academic hospitals who meet all of the criteria in §7701 shall be made as follows:

1. Outpatient Surgery. The reimbursement amount for outpatient hospital surgery services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

2. Clinic Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

3. Laboratory Services. The reimbursement amount for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

4. Rehabilitation Services. The reimbursement amount for outpatient rehabilitation services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

5. Other Outpatient Hospital Services. The reimbursement amount for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services, and outpatient hospital facility fees shall be an interim payment equal to 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

B. These rates are conditional on the hospital continuing to meet all qualifying criteria included in §7701. If the hospital no longer qualifies, payments will revert back to appropriate non-rural, non-state hospital assigned rates effective on the date that the qualification(s) in §7701 are no longer met.

C. The department may review all above provisions every three years, at a minimum to evaluate continuation of these enhanced reimbursements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 50:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana

Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, but may have a positive impact on the provider's ability to provide the same level of service as described in HCR 170, since it increases payments for services they already render.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on July 1, 2024.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on June 10, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on June 27, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after June 10, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Ralph L. Abraham, M.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Outpatient Hospital Services High Medicaid Utilization Academic Hospitals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$1,492,478 for FY 24-25, and \$3,004,467 for FY 25-26; however, these costs will be offset by an inter-agency transfer of funds. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 23-24 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule adopts provisions governing qualifying criteria and reimbursement methodology for high Medicaid utilization academic hospitals to increase payments for outpatient hospital services.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase collections through inter-agency transfer of \$1,492,478 for FY 24-25 and \$3,004,467 for FY 25-26 and will increase federal revenue collections by approximately \$20,318,089 for FY 24-25 and \$24,346,933 for FY 25-26. It is anticipated \$324 will be collected in FY 23-24 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule adopts provisions governing qualifying criteria and reimbursement methodology for high Medicaid utilization academic hospitals to increase payments for outpatient hospital services. Implementation of this proposed rule is anticipated to increase Medicaid payments to the qualifying hospital by approximately \$21,810,567 for FY 24-25 and \$27,351,400 for FY 25-26.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule reimburses a higher percentage of cost to one hospital and may impact hospital directed payments in future fiscal years.

Kimberly Sullivan, JD
Medicaid Executive Director
2405#053

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Officer